

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	Conf. No.: 8027
Thomas C. Schulz et al.)	
)	Art Unit: 1633
Serial No. 10/551,603)	
)	Examiner: Fereydoun Sajjadi
Filed: September 30, 2005)	
)	
For: Methods for Neural Differentiation of)	
Embryonic Stem Cells Using Protease)	
Passaging Technique)	

RESPONSE TO RESTRICTION REQUIREMENT

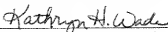
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the Restriction Requirement mailed April 9, 2007, Applicants provisionally elect with traverse Group I which encompasses Claims 1-9 and 31, drawn to a human pluripotent embryonic stem cell culture, wherein the cells of the culture do not express SSEA1, and do express SSEA3, SSEA4, Oct4, Tra-1-60, Tra-1-80, and nestin. Applicants further provisionally elect with traverse the species related to a trisomy of chromosome 17 (encompassed by Claims 1-9 and 31).

The restriction requirement is respectfully traversed on the basis that the two groups of claims relate to a single general inventive concept because they share a corresponding technical feature. MPEP § 1893.03(d). The Office Action asserted that the same or corresponding technical feature shared by the claims of Group I and Group II is a human embryonic stem cell culture, wherein the cells do not express SSEA1. Therefore, based on Andrews *et al.*, the Office Action concluded that the groups do not share a special technical feature that is a contribution

I hereby certify that this correspondence is being filed electronically with the U.S. Patent and Trademark Office addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 7, 2007.

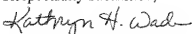

Kathryn H. Wade, Ph.D. -Reg. No. 54,682

over the prior art. Applicants respectfully submit that the common technical feature shared by the two groups is a human embryonic stem cell culture, wherein the cells express nestin substantially uniformly. See, e.g., Examples 11 and 15; Figures 15C and 15D. Accordingly, as the two groups of claims share a technical feature that is a contribution over the prior art, the restriction requirement should be withdrawn. Should the restriction requirement be maintained, however, Applicants note that upon allowance of the claims directed to the elected invention, they are entitled to rejoinder of the claims directed to the non-elected invention. MPEP § 821.04(b).

The requirement for the election of a single species of autosomal trisomy to prosecute in the present application also is respectfully traversed. The traversal is on the basis that the examination of the claims as they relate to each of the claimed autosomal trisomies would not place a serious burden on the Patent Office because of their close technological relationship and sufficiently small number. MPEP § 803.02. However, should the requirement for the election of species be maintained, Applicants note that upon the allowance of a generic claim, they are entitled to the consideration of the claims directed to the non-elected species which are written in dependent form or otherwise include all of the limitations of the allowed generic claim as provided by 37 C.F.R. § 1.141.

The foregoing is submitted as a full and complete response to the Restriction Requirement mailed April 9, 2007. If there are any issues which can be resolved by telephone conference, the Examiner is invited to call the undersigned attorney at (404) 853-8081. No fees are believed to be due, however, the Commissioner is hereby authorized to charge any fees due or credit any overpayment to Deposit Account No. 19-5029 (Reference No. 18377-0067).

Respectfully submitted,



By: Kathryn H. Wade, Ph.D.

Reg. No. 54,682

Attorney for Applicant

SUTHERLAND ASBILL & BRENNAN LLP

999 Peachtree Street, NE

Atlanta, Georgia 30309-3996

(404) 853-8000

SAB Docket: 18377-0067